

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMMISSION'S)
PROPOSED RULEMAKING CONCERNING)
DISCONNECTION OF A LOCAL EXCHANGE)
CARRIER BY ANOTHER LOCAL EXCHANGE)
CARRIER, NOTICE OF BANKRUPTCY,)
RELINQUISHMENT OF SERVICE, AND)
REVOCATION OF CERTIFICATE OF)
TERRITORIAL AUTHORITY, WITH SPECIAL)
PROVISIONS FOR A LOCAL EXCHANGE)
CARRIER THAT IS A PROVIDER OF LAST)
RESORT)

IURC RM #06-02

COMMENTS OF VERIZON AND EMBARQ

Verizon North Inc., Contel of the South, Inc. d/b/a Verizon North Systems, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services and MCI Communications Services, Inc. d/b/a Verizon Business Services (collectively "Verizon") and United Telephone of Indiana, Inc. d/b/a Embarq ("Embarq"), by their undersigned counsel, respectfully submit the following comments to the proposed disconnection rules amendments in the above-captioned rulemaking ("Disconnection Rules").

170 IAC 7-6-1 Policy and Scope.

As a general matter, the scope of the rule applies only to customer notice, yet several of the changes go beyond that. The provisions of the rule that are not limited to customer notice should be struck. In the alternative, the scope section of the rule should acknowledge that the rule includes notice to the Commission.

170 IAC 7-6-2 Definitions.

Verizon / Embarq proposes that the definition of “provider of last resort” as defined in section (4) should be changed to include the words “upon request” in Subsection B in order for the provider of last resort in any given geographical area to not automatically be named the default provider when a local exchange carrier (“LEC”) relinquishes service in that area. Thus, Verizon / Embarq proposes the following alternative language for subsection B (4) of the rule.

(4) “Provider of last resort” means a provider that:

- (A) holds a certificate of territorial authority issued by the commission, and
- (B) is required to offer local exchange service, *upon request*, to customers throughout a defined geographic area.

170 IAC 7-6-3 Notice to the Commission; notice to customers.

Verizon / Embarq proposes that the following language (in italics below) be added to subsection 7-6-3(d) in order to make it clear what customers the Commission is referring to and provide the Commission with the authority to initiate any customer notification process itself if the LEC subject to disconnection does not perform the required notification duties.

(d) If the LEC subject to disconnection fails to notify its customers (*as provided to the Commission under subsection (b)(2)*) or show proof of mailing disconnection notices as required by subsection (c), the commission may:

- (1) initiate an investigation or other procedure in accordance with IC 8-1-2-58, IC 8-1-2-69, or other related statutes; and
- (2) request the disconnecting LEC to provide any customer identifying information it may have, which shall be treated as confidential on a preliminary basis by the commission; *and*
- (3) *initiate customer notification itself based on the information received in subsections (b)(2) and (d)(2).*

In addition, subsection (g) in the proposed rule 7-6-3 is unclear. It states:

(g) This rule shall not apply where the disconnecting LEC is without notice of the following:

- (1) the provider being disconnected is reselling the retail services of the disconnecting LEC to third parties, or
- (2) the provider being disconnected is using the retail facilities of the disconnecting LEC to serve customers.

In other words, is it the intent of the Commission when a competitive local exchange carrier ("CLEC") is using the resale or unbundled network elements ("UNEs") of an incumbent local exchange carrier ("ILEC") that the rules apply, but if for some reason the ILEC has not been notified or is not aware that the CLEC is not providing resale services or using its UNEs, the rule does not apply? The Commission should clarify this by revising the subsection.

170 IAC 7-6-4 Notice of Bankruptcy.

Section (c) of proposed rule 7-6-4 creates a condition precedent to any party filing for bankruptcy protection, and this entire section therefore is likely preempted by federal bankruptcy laws and should be deleted. However, if the Commission does not delete this section, Verizon / Embarq proposes that the following language be added to this section. The language itself is self explanatory.

New Section: (d) If the LEC seeking bankruptcy agrees to a payment plan with the underlying LEC in which an unpaid balance is due through its bankruptcy proceedings and defaults on the agreed upon payment plan, the underlying LEC can automatically disconnect the LEC subject to bankruptcy and not be required to go through the disconnection process again.

170 IAC 7-6-5 Relinquishment of Service by a LEC

Modification is also required to subsection 7-6-5(b)(2). Any LEC that is relinquishing service may have customers remaining who have not migrated to a new service provider by the

end of the guaranteed service period under section 7-6-5(b)(2). Verizon / Embarq proposes some new language to this subsection in order ensure that those end user customers are correctly managed by the LEC relinquishing service and the pending end user disconnections or transfers are not left up to any other LEC. It is the full responsibility of the LEC relinquishing service to care for its customers before the final date of relinquishment.

New Section: (c) On the last date of guaranteed service as required in subsection (b)(2), the LEC relinquishing service shall issue all the necessary disconnection orders for all its remaining end user customers that have not migrated to a new Local Service Provider of the customer's choice. The LEC relinquishing service shall work with the underlying LEC or provider to be sure all its end user customers are cared for before final relinquishment of service.

In addition, the following language should be removed from subsection 7-6-5(b)(5) as the toll free number should be provided by the relinquishing LEC regardless if it is a provider of last resort or not.

~~(5) At least one (1) toll free customer service telephone number maintained by the LEC that is ceasing operations or relinquishing authority to facilitate the continuation of service and the transition of customers to other providers, if the LEC that is ceasing operations or relinquishing authority is a provider of last resort.~~

170 IAC 7-6-6 Revocation of Certificate of Territorial Authority.

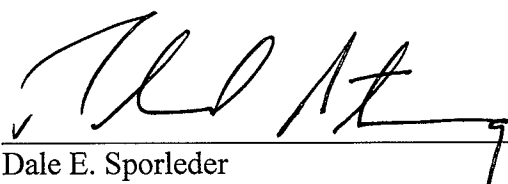
Finally, subsection 7-6-6 should be revised to clarify that a CTA will not be revoked without a hearing, whether the revocation is requested by the LEC or other party. Further, the reasons for revocation should be narrowly tailored. For example, Section (b)(3) should be amended so as to only allow revocation for failure to respond to a reasonable request for information where the answer would not be automatically entitled to confidentiality protection from disclosure to the public or to other LECs. A LEC may have a valid reason for not responding to a request for information, and should not be penalized for acting reasonably. Also,

a LEC should not be put at risk in disclosing to the public or to other carriers confidential information in order to keep its certificate.

Conclusion

Verizon and Embarq appreciate the opportunity to provide input into this rulemaking. Verizon and Embarq remain willing and committed to work with the Commission and other interested parties in examining what amendments should be made to the existing Disconnection Rules.

Respectfully submitted this 8th day of June 2006,

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CERTIFICATE OF SERVICE
RM 06-02

The undersigned hereby certifies that on the 8th day of June, 2006, an original and five copies of the foregoing comments were delivered to the Indiana Utility Regulatory Commission and a copy was served upon the following counsel:

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